IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL (LDG.) NO. 425 OF 2006
IN.
WRIT PETITION (LDG.) NO.1181 OF 2006

New Kapaswadi Kali Basti Ekta
Seva Mandal. ... Appellant.

Versus.

Municipal Corporation of
Greater Mumbai. ... Respondent.

Shri Diwakar Dwivedi for the Appellant.

Shri Vinod Mahadik for the Respondent.

CORAM : KSHITIJ R.VYAS, C.J., &
ABHAY S.OKA, J.

DATE : 20th June, 2006.

P.C.:

1. During the course of hearing the learned Counsel appearing for the Municipal Corporation for Greater Mumbai submitted that the authorities have considered the case of the each individual members of the Petitioner Seva Mandal regarding their claim for occupying the premises and thereafter demolished the unauthorised huts. According to the learned Counsel, the authorities have found that the members of the Appellants are not occupying the premises before the year 1995. The said statement has been disputed by the learned Counsel appearing for the Petitioner by submitting that the Respondent has not considered the cases of all the hutment dwellers. He submitted that

some of the persons are still occupying the premises and they are in occupation of their respective premises much prior to 1995 and they hold documents in proof thereof. According to the learned Counsel for the Petitioner, the persons whose huts are demolished are also in a position to show their occupation of the premises much prior to 1995.

2. In this view of the matter, we dispose of the Appeal and the writ petition by the following directions:

i) The Respondent-Corporation is directed to examine the claim of the members of the Petitioner-Seva Mandal on the basis of the documents already submitted by them to the Corporation. The said exercise shall be completed within a period of four weeks from today. Needless to say that the Corporation will examine individual case of each member of the Petitioner-Seva Mandal and in the event of the Corporation finding that the member is occupying the premises prior to 1995, and is eligible for alternative accommodation elsewhere as per the scheme, shall provide accommodation to such member. In other words, if any member of the Petitioner-Seva Mandal is not found to be occupying the premises prior to 1995, he is

liable to be evicted by the Corporation.

ii) Both the appeal and the writ petition are disposed of.

CHIEF JUSTICE

ABHAY S.OKA, J.